

Comparison of Requirements Between WIC Fruit and Vegetable Benefit and Farmers' Markets And WIC Farmers' Market Nutrition Program

Fruit and Vegetable Benefit		WIC FMNP	
Source	Item	Source	Item
FR Definition	Farmer means an individual authorized by the State agency to sell eligible fruits and vegetables to participants at a farmers' market or roadside stands. Individuals who exclusively sell produce grown by someone else, such as wholesale distributors, cannot be authorized.	FR Definition	Farmer means an individual authorized to sell produce at participating farmers' markets and/or roadside stands. Individuals who exclusively sell produce grown by someone else, such as wholesale distributors, cannot be authorized to participate in the FMNP. For purposes of this part, the term "farmer" shall mean "producer" as that term is used in section 17(m)(6)(D) of the CNA (42 U.S.C. 1786(m)(6)(D)). A participating State agency has the option to authorize individual farmers, farmers' markets and/or roadside stands.
		FR Definition	Farmers' market means an association of local farmers who assemble at a defined location for the purpose of selling their produce directly to consumers.
		FR Definition	Roadside stand means a location at which an individual farmer sells his/her produce directly to consumers. This is in contrast to a group or association of farmers selling their produce at a farmers' market.
		FR Definition	Eligible foods means fresh,

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			<p>nutritious, unprepared, locally grown fruits, vegetables and herbs for human consumption. Eligible foods may not be processed or prepared beyond their natural state except for usual harvesting and cleaning processes. Honey, maple syrup, cider, nuts, seeds, eggs, meat, cheese and seafood are examples of foods not eligible for purposes of the FMNP. State agencies shall consider locally grown to mean produce grown only within State borders but may also define it to include areas in neighboring States adjacent to its borders. Under no circumstances can produce grown outside of the United States and its territories be considered eligible foods.</p>
Benefits	Monthly, amount varies by participant's category. No infants.		Annual, amount consistent across categories. No infants less than 4 months of age (MT chooses no infants). States may choose to eliminate eligibility for a category.
246.12(a)(1)	The SA may permit only authorized retailers and farmers, home food delivery contractors, and direct distribution sites to accept WIC benefits.	248.10(a)(1)	<p>Only farmers, farmers' markets and roadside stand authorized by the SA may redeem WIC FMNP benefits.</p> <p>Only farmers authorized by the SA or that have a valid agreement with an authorized market may redeem WIC FMNP.</p>
		248.10(a)(5)	Authorized farmers shall display a sign stating that they are authorized to accept WIC FMNP.
246.12(f)(2)(iv)	Redemption by retailer or		

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	farmer no more that 60 days from the first day to use.		
246.12(f)(3)	The SA establishes procedures for identifying for each benefit which retailer or farmer is submitting the WIC benefit for redemption. Each retailer operated by a single business entity must be identified separately.		
246.12(h)(1)(i)	The agreement must not be for a period to exceed three years	248.10(b)(7)	Agreements may not exceed three years.
246.12(h)(3)(v)	Retailer or farmer writes in the actual purchase price on the benefit before it is signed.		
246.12(h)(3)(vi)	Participant, parent, guardian or proxy must sign the benefit after the actual price has been entered.		
246.12(h)(3)(xi) See also 246.12(v)(1)(v)	At least one representative of the vendor must participate in training annually. Annual training may be provided by the SA in a variety of formats, including newsletters, videos and interactive training. The SA will designate the date and time of interactive training and offer at least one alternative date to attend such training.	248.10(a)(4)	The SA shall ensure that face-to-face training is conducted prior to start up of the first year of WIC FMNP participation of a farmers' market and individual farmer.
		248.10(d)	SA shall conduct annual training for farmers/ farmers' market managers participation in WIC FMNP. After the first year of farmer, farmers' market or roadside stand operation, the SA has the discretion in determining the method used for annual training purposes.
		248.10(d)(1-6)	At a minimum, annual training shall include instructions emphasizing:

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			<ol style="list-style-type: none"> 1) eligible food choices; 2) proper WIC FMNP redemption procedures; 3) equitable treatment of WIC FMNP customers (same quality and cost as for other customers); 4) civil rights compliance and guidelines; 5) guidelines for storing WIC FMNP benefits safely; and 6) guidelines for franking/cancelling WIC FMNP benefits depositing in bank.
246.12(s)	Payment must be made to farmers within 60 days after valid f/v benefits submitted for payment.		
246.12(v)	May authorize farmers at farmers markets and/or roadside stands.	248.10(a)	May authorize farmers, farmers markets and/or roadside stands.
Q & A Clarification (III)(f)	Agreements must be with farmers and may not be with farmers' markets.		
	Must enter into written agreement with all farmers who will be authorized farmers.		Must enter into an agreement with farmers and farmers' markets or farmers' markets who then enter into an agreement with farmers.
	Agreement signed by representative of state and legal authority who can obligate the farmer (farmer or farmers' representative).	248.10((b)	<p>Agreement signed by representative of state and legal authority who can obligate the farmer or farmers' market (farmer or farmers' representative or market master).</p> <p>Description of sanctions for noncompliance with WIC FMNP requirements.</p>
	Only farmers authorized by the		

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	State agency may redeem fruit and vegetable benefits.		
	Farmers must reapply at expiration of agreement.		
	States must give 15 day written notice of expiration of agreement.		
246.12(v)(1)	The agreement must contain the following provision:	248.10(b)(1)	The agreement must include:
		248.10(b)(1)(i)	Provide information the SA may require for its period reports to FNS.
246.12(v)(1)(i)	Assure redeemed only for eligible fruits and vegetables as defined by the State agency.	248.10(b)(1)(ii)	Assure redeemed only for eligible foods.
246.12(v)(1)(ii)	Provide eligible fruits and vegetables at the current price or less than the current price charged to other customers.	248.10(b)(1)(iii)	Provide eligible fruits and vegetables at the current price or less than the current price charged to other customers.
246.12(v)(1)(iii)	Accept the fruit and vegetable benefit within the dates of validity (will have a first day to use and a last day to use) and submit within time from established which is 60 days from the first day to use.	248.10(b)(1)(iv)	Accept the fruit and vegetable benefit within the dates of validity and submit by November 1 st of the same calendar year.
246.12(v)(1)(iv)	Redeem according to the established procedure.	248.10(b)(1)(v)	Redeem according to established procedure. And mark each WIC FMNP transacted with a farmer identifier.
246.12(v)(1)(v)	Accept training on using the fruit and vegetable procedures and provide training to any employees with responsibilities related to the fruit and vegetable benefit.	248.10(b)(1)(vi)	Accept training on WIC FMNP procedures and provide training to farmers and employees with WIC FMNP responsibilities.
246.12(v)(1)(vi)	Agree to be monitored for compliance with program requirements; may be overt or covert monitoring.	248.10(b)(1)(vii)	Agree to be monitored for compliance with WIC FMNP requirements; may be overt or covert monitoring.
246.12(v)(1)(vii)	Be accountable for actions of	248.10(b)(1)(viii)	Be accountable for actions of

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	employees related to the fruit and vegetable benefit.		employees or farmers in the provision of foods or activities.
246.12(v)(1)(viii)	Pay the SA for any fruit and vegetable benefits incorrectly cash or redeemed according to the agreement.	248.10(b)(1)(ix)	Pay the SA for any WIC FMNP checks transacted in violation of this agreement.
246.12(v)(1)(ix)	Offer WIC participants or proxies the same courtesies as other customers.	248.10(b)(1)(x)	Offer WIC FMNP participants or proxies the same courtesies as other customers.
246.12(v)(1)(x)	Comply with the non-discrimination provisions of USDA regulations as provided in 248.7.	248.10(b)(1)(xi)	Comply with the non-discrimination provisions of USDA regulations as provided in 248.7.
246.12(v)(1)(xi)	Notify the SA if any farmers' market ceases operations prior to the end of the authorization period.	248.10(b)(1)(xii)	Notify the SA if any farmer, farmers' market roadside stand ceases operations prior to the end of the authorization period.
246.12 (v)(2)	The farmer must not:	248.10(b)(2)	The farmer, farmers' market and roadside stand may not:
246.12(v)(2)(i)	Collect sales tax on fruit and vegetable benefit purchases.	248.10(b)(2)(i)	Collect sales tax on WIC FMNP benefit purchases.
246.12(v)(2)(ii)	Seek restitution from WIC participants or proxies for fruit and vegetables benefit not paid or partially paid by the State Agency.	248.10(b)(2)(ii)	Seek restitution from WIC FMNP participants or proxies for fruit and vegetables benefit not paid or partially paid by the State Agency.
246.12(v)(2)(iii)	Give cash change in for purchases in amounts less than the value of the fruit and vegetable benefit.	248.10(b)(2)(iii)	Give cash change in for purchases in amounts less than the value of the WIC FMNP benefit.
246.12(v)(3)	Neither the SA nor the farmer has an obligation to renew the agreement. Either may terminate the agreement for cause after providing advance written notification.	248.10(b)(3)	Neither the SA nor the farmer has an obligation to renew the agreement. Either may terminate the agreement for cause after providing advance written notification.
246.12(v)(4)	The SA may deny payment to the farmer for improperly redeemed f/v benefit and may demand refunds for payments	248.10(b)(4)	The SA may deny payment to the farmer for improperly redeemed f/v benefit and may demand refunds for payments

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	already made on improperly redeemed benefits.		already made on improperly redeemed benefits.
246.12(v)(5)	The SA may disqualify a farmer for WIC Program abuse. The farmer has the right to appeal a denial of application to participate, a disqualification or a program sanction by the SA. Expiration of the agreement with a farmer and claims action under 246.23 (claims and penalties) are not appealable.	248(b)(5)	The SA may disqualify a farmer, farmers' market or roadside stand for WIC FMNP abuse. The farmer, farmers market or roadside stand has the right to appeal a denial of application to participate, a disqualification or a program sanction by the SA. Expiration of the agreement with a farmer, farmers market or roadside stand and claims action under 246.23 (claims and penalties) are not appealable.
246.12(v)(6)	A farmer who commits fraud or engages in other illegal activity is liable to prosecution under applicable Federal, State or local laws.	248.10(b)(6)	A farmer, farmers' market or roadside stand who commits fraud or engages in other illegal activity is liable to prosecution under applicable Federal, State or local laws.
		248.10(b)(7)	Agreements may not exceed three years.
Q & A Clarification (III)(c)	The farmers may also be excluded from the WIC monitoring requirements provided they are included in the sample of farmers upon which the WIC FMNP monitoring requirement is drawn.	248.10(e)	SA responsible for monitoring farmers, farmers' markets, roadside stands and local agencies. The SA will develop a system for identifying high risk farmers, farmers' markets and roadside stands. (Current criteria for high risk is new and number of complaints. Can not determine cashing percentage.)
		248.10(e)(2)	Rank farmers, farmers' markets and roadside stands by risk factors, and shall conduct annual, on-site monitoring of at least 10

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			percent of farmers, 10 percent of farmers' markets and 10 percent of roadside stands, including those that are identified as high risk.
		248.10(e)(3)	The monitoring report of the farmer, farmers' market or roadside stand will contain at a minimum: names of farmers, farmers' market or roadside stand and reviewer; date of review; nature of problem(s) detected or the observation that the farmer, farmers' market or roadside stand appears to be in compliance with requirements; record of interviews; and signature of the reviewer. A copy of the report and any need for action is provided to the farmer, farmers' market or roadside stand.
		248.10(e)(4)	At least every two years, the SA will monitor each local agency.